



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JEROME I. AND CATHERINE **BOOKIN**)

For Appellants: Jerome I. **Bookin**, in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

David M. Hinman
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Jerome I. and Catherine **Bookin** against a proposed assessment of additional personal income tax in the amount of \$47.60 for the year 1969.

The sole issue presente'd by this appeal is whether appellant is entitled to a deduction for the cost of a course in stock market trading and investing.

Jerome I. **Bookin** (hereinafter referred to as appellant) is a medical doctor engaged in the practice of radiology in Stockton, California. In addition,

Appeal of Jerome I. and Catherine Bookin

appellant manages his own investment portfolio which he states has varied in value between \$20,000 and \$40,000 since 1963. In 1969, appellant paid \$480.00 to the Wyckoff Stock Market Institute for a course of study which he maintains was intended to increase his skill and refine his stock market trading and investing. On his 1969 California personal income tax return, appellant deducted the cost of the stock market institute course as a business expense. Respondent's denial of the deduction gave rise to this appeal.

Appellant cites no authority in support of his contention that the cost of the Wyckoff Stock Market Institute course was a deductible business expense. He states that his business is that of earning a living, and part of that business consists of investments in stocks. He thereby reasons that the cost of the stock market institute course should be deductible as a business expense. Appellant argues that his colleagues have been allowed to deduct the cost of the Wall Street Journal and various stock market advisory services and he, therefore, should be able to deduct the cost of a course directed toward the same result.

Section 17202 of the Revenue and Taxation Code, pertaining to business expense deductions, provides in **part**:

(a) There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business,...

In its regulations respondent has interpreted the above code section, as it applies to educational expenses, as follows:

(1) Expenditures made by a taxpayer for his education are deductible if they are for education (including research activities) undertaken primarily for the purpose of:

(A) Maintaining or improving skills required by the taxpayer in his employment or other trade or business, or

(B) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations,

Appeal of Jerome I. and Catherine Bookin

imposed as a condition to the retention by the taxpayer of his salary, status or employment.

* * *

(2) Expenditures made by a taxpayer for his education are not deductible if they are for education undertaken primarily for the purpose of obtaining a new position or substantial advancement in position, or primarily for the purpose of fulfilling the general educational aspirations or other personal purposes of the taxpayer.... (Cal. Admin. Code, tit. 18, reg. 17202(e).)

In the present case, appellant can only be arguing that the educational expense incurred by him was for the purpose of "[m]aintaining or improving skills required by the taxpayer in his employment or other trade or business." The Wyckoff Stock Market Institute course had no bearing on his employment as a radiologist; therefore, the management of his own investment portfolio would **have to constitute a trade or business** if appellant is to be allowed a deduction under section 17202.

The law is well settled in this area. It has been held many times that the management of one's personal investments, however extensive, does not constitute a "trade or business." (Higgins v. Commissioner, 312 U.S. 212 [85 L. Ed. 783]; Commissioner v. Smith, 203 F.2d 310, cert. denied, 346 U.S. 816 [98 L. Ed. 3431; Appeal of John and Eliza Gallois, Cal. St. Bd. of Equal., Dec. 10, 1963; Appeal of Estate of Samuel Cohen, et al., Cal. St. Bd. of Equal., Nov. 17, 1964.) Consequently, appellant's educational expense cannot qualify as a deduction under section 17202.

The fact that appellant's colleagues have been able to deduct the costs of the Wall Street Journal and their stock market advisory services is altogether consistent with our decision here. Those deductions are permitted under section 17252 of the Revenue and Taxation Code,, which permits deductions to be taken for expenses incurred in the production or collection of income. However, respondent's regulations specifically state: "Among expenditures not

Appeal of Jerome I. and Catherine Bookin

allowable as deductions under section 17252 'are the following:...expenses **of** taking special courses or training;..." (Cal. Admin. Code, tit. 18, reg. 17252, subd. **(f)**.)

Sections 17202 and 17252 of the Revenue and Taxation Code are the only provisions under which appellant could possibly have deducted the cost of the Wyckoff Stock Market Institute course. Since that expense was not an allowable deduction under either of those sections, we must conclude that respondent has properly disallowed that deduction. **We** therefore sustain respondent's action in this matter.

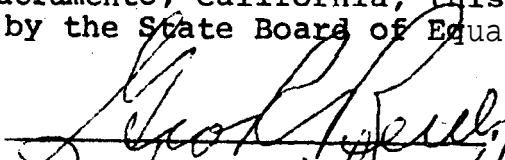
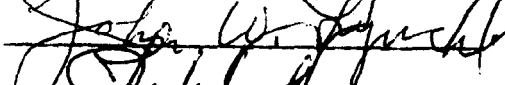
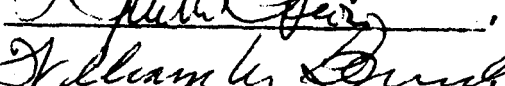
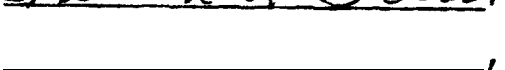
O R D E R

Pursuant to the views expressed in the opinion of the board on file **in** this proceeding, and good cause appearing therefor,

Appeal of Jerome I. and Catherine Bookin

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Jerome I. and Catherine Bookin against a proposed assessment of additional personal income tax in the amount of \$47.60 for the year 1969, be and the same is hereby sustained.

Done at Sacramento, California, this 26th day
of March, 1974, by the State Board of Equalization..

 Chairman
 Member
 Member
 Member
_____, Member

ATTEST:  Secretary